

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

20-CA-190072

Date Filed

December 19, 2016

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Chugach Alaska dba Wolf creek Federal Services		b. Tel. No. (907) 550-7146
		c. Cell No. (540) 656-9894
		f. Fax No. (907) 261-0373
d. Address (Street, city, state, and ZIP code) 3800 Centerpoint Drive Suite 1200 AK Anchorage 99503-____	e. Employer Representative William Rogers Esq. General Counsel	g. e-Mail William.Rogers@chugachgov.com
		h. Number of workers employed 50
i. Type of Establishment (factory, mine, wholesaler, etc.) Construction Services	j. Identify principal product or service Federal Contractor managing military housing	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 3 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

Title:

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.

(b) (6), (b) (7)(C)

4c. Cell No.

(b) (6), (b) (7)(C)

4d. Fax No.

(671) 646-5721

4e. e-Mail


(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

John Richard Bordallo Bell Esq.

Title: Attorney

(Print/type name and title or office, if any)

Tel. No.

(671) 646-5722

Office, if any, Cell No.

(671) 488-1159

Fax No.

(671) 646-5721

e-Mail

(b) (6), (b) (7)(C)

341 S. Marine Corps Drive RK Plaza Suite 309
Address Tamuning GU 96913-____

12/18/2016 21:22:39

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Basis of the Charge

8(a)(1)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, discussing wages and/or other terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C) 2016

8(a)(3)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee discharged	Approximate date of discharge
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C) 2016

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 37
300 Ala Moana Blvd Rm 7-245
Honolulu, HI 96850-7245

Agency Website: www.nlrb.gov
Telephone: (808) 541-2814
Fax: (808) 541-2818

March 30, 2017

John Richard Bordallo Bell, Esq.

341 S. Marine Corps Drive
RK Plaza Suite 309
Tamuning, GU 96913

Re: Chugach Alaska dba Wolf Creek Federal
Services
Case 20-CA-190072

Dear Mr. Bell:

We have carefully investigated and considered your charge that Chugach Alaska dba Wolf Creek Federal Services has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge filed on December 19, 2016 alleges that the Employer violated Sections 8(a)(1) and (3) of the Act by retaliating against you for your protected concerted activities when it terminated your employment on (b) (6), (b) (7)(C), 2016. Specifically, you allege that you were discriminated against because of the statement that you made against (b) (6), (b) (7)(C) and in support of a coworker.

The Supreme Court-approved analysis in 8(a)(1) and (3) cases turning on employer motivation was established in *Wright Line*, 251 NLRB 1083 (1980), *enfd.* 662 F.2d 899 (1st Cir. 1981), *cert. denied* 455 U.S. 989 (1982). The elements required to show that an employee's protected activity was a motivating factor in an employer's adverse action, "are union or protected concerted activity, employer knowledge of that activity, and union animus on the part of the employer." *Adams & Associates, Inc.*, 363 NLRB No. 193, *slip op.* at 6 (2016). An employer can avoid a finding that it violated the Act by "demonstrat[ing] that the same action would have taken place in the absence of the protected conduct." *Wright Line*, *supra* at 1089.

After careful review of the numerous documents, statements, and all of the evidence submitted, I have concluded that there is insufficient evidence to support your allegations that the Employer violated the Act. More specifically, the evidence indicates that the Employer applied its progressive discipline policy and concluded that this last event warranted termination of your employment.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlr.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **April 13, 2017**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than April 12, 2017. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before April 13, 2017**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after April 13, 2017, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

March 30, 2017

Very truly yours,

JILL H. COFFMAN
Regional Director

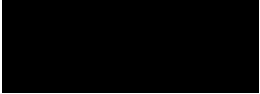
By: */s/ Dale K. Yashiki*

DALE K. YASHIKI
Officer in Charge

Enclosure

cc: William Rogers, Esq.
General Counsel
Chugach Alaska dba Wolf Creek Federal Services
3800 Centerpoint Drive, Suite 1200
Anchorage, AK 99503

(b) (6), (b) (7)(C)

A solid black rectangular redaction box covering the bottom portion of the cc list.